

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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IN RE: NORTH SEA BRENT CRUDE OIL FUTURES LITIGATION	x ) ) ) ) x	CIVIL ACTION NO. 1:13-MD-02475-ALC HON. ANDREW L. CARTER, JR
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**MEMORANDUM OF LAW IN FURTHER SUPPORT OF PLAINTIFF DAVID  
HARTER'S MOTION FOR APPOINTMENT OF INTERIM LEAD PLAINTIFF  
AND INTERIM CO-LEAD COUNSEL**

On November 20, 2013, Plaintiff David Harter ("Harter" or "Plaintiff") respectfully submitted his Motion for an Order appointing him Interim Lead Plaintiff and appointing Morgan & Morgan, P.C. ("Morgan & Morgan"), Fenet Law LLC ("Fenet Law"), and Edwards Kirby LLP ("Edwards Kirby") as Interim Co-Lead Counsel for the "Oil Producing Class" described in Plaintiff's complaint as:

All landowners (whether onshore or offshore) in Louisiana, Texas or any state in North America of oil producing property, oil lease owners, royalty or working interest owners, persons, business or entities (other than Defendants and any parent, subsidiary, affiliate, or agent of any Defendant) that purchased or sold Crude Oil during the period of at least 2002 through the Present (the "Class Period").

*See Doc. Nos. 4-6.*

**I. HARTER SEEKS APPOINTMENT AS INTERIM LEAD OF THE OIL PRODUCING CLASS**

Of the six actions currently consolidated and pending before this Court, only Harter has filed on behalf of the Oil Producing Class; the other five actions each purport to represent persons who bought Brent Crude Oil Contracts on the NYMEX or ICE. Thus, while the cases

will share factual and legal similarities, Harter seeks to represent a different putative class, and is the only party who has stepped forward on behalf of the putative Oil Producing Class.

Plaintiff hereby reiterates his motion for interim lead of the Oil Production Class.

**II. HARTER'S ACTION SHOULD BE COORDINATED RATHER THAN CONSOLIDATED**

Plaintiff notes that Pretrial Order No. 1 (Initial Case Management Order) consolidates his action, *Harter v. BP PLC et al*, Case No.: 1:13-cv-07443-ALC, with the cases representing a class of purchasers of Brent Crude Oil futures contracts. Plaintiff respectfully requests that his action be coordinated with those cases rather than consolidated with them.

The other actions<sup>1</sup> in the present litigation are on behalf of all entities that purchased or sold Brent Crude Oil futures contracts on the NYMEX or ICE from 2002 to the present. In contrast, Harter's action is on behalf of all landowners (whether onshore or offshore) of oil producing property, oil lease owners, royalty or working interests owners, and entities that purchased or sold Crude Oil during the period of at least 2002 through the Present. The class proposed by the oil futures actions does not overlap with the class proposed by Harter's action.

On October 21, 2013, the Judicial Panel on Multidistrict Litigation ordered the Harter action transferred to the Southern District of New York for "coordinated or consolidated pretrial proceedings" to avoid duplicative discovery and eliminate the possibility of inconsistent rulings on *Daubert* motions and other pretrial matters. It is foreseeable then that following pretrial proceedings, the Harter action may be transferred back to the Middle District of Louisiana.

The cases would be better served, therefore, with coordination rather than consolidation.

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<sup>1</sup> Case Nos. 13-md-2475 (ALC): 1:13-cv-03473-ALC; 1:13-cv-03587, 1:13-cv-03944, 1:13-cv-04142, 1:13-cv-04553, 1:13-cv-04872, 1:13-cv-04938, 1:13-cv-05577, 1:13-cv-07089, 1:13-cv-08030, 1:13-cv-08151, and 1:13-cv-08179.

### III. CONCLUSION

Plaintiff Harter respectfully requests that the Court appoint him as Interim Lead Plaintiff and Morgan & Morgan, Fenet Law, and Edwards Kirby as Interim Co-Lead Counsel for the putative Oil Producing Class, and order his case coordinated with the other cases rather than consolidated with them.

Date: January 24, 2014

Respectfully Submitted,

/s Peter Safirstein  
Peter Safirstein

Domenico Minerva  
Elizabeth Metcalf  
**Morgan & Morgan, P.C.**  
28 W. 44<sup>th</sup> Street, Suite 2001  
New York, NY 10036  
T: (212) 564-1637  
F: (212) 564-1807  
Email: psafirstein@forthepeople.com  
Email: dminerva@forthepeople.com  
Email: emetcalf@forthepeople.com

Robert Wickliffe Fenet  
**Fenet Law Firm, LLC**  
4315 Bluebonnet Blvd., Suite B  
Baton Rouge, LA 70809  
T: (225) 926-5500  
F: (225) 296-7417  
Email: bob@fenetlaw.com  
*Admitted Pro Hac Vice*

John Edwards  
**Edwards Kirby, LLP**  
P.O. Box 17005  
Raleigh, N.C. 27619  
T: (919) 780-5400  
F: (919) 800-3099  
Email: jedwards@edwardskirby.com  
*Admitted Pro Hac Vice*

*[Proposed] Interim Co-Lead Counsel*